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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

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**BLACK PEARL TECHNOLOGIES,  
LLC, a Utah limited liability company,**

**Plaintiff,**

**v.**

**3502031 CANADA INC., a Canadian  
corporation carrying business under the  
firm name K & L CABLE, and JOHN  
DOES 1-10,**

**Defendants.**

**ORDER**

**Case No. 2:06 CV 00285DAK**

**Judge Dale A. Kimball**

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This matter is before the court on Plaintiff's Motion for Sanctions for Failure to Comply with Court's Order and for Attorneys' Fees Pursuant to Settlement Agreement. On March 15, 2007, this court issued a Memorandum Decision and Order which declared that the parties in this matter had settled on the terms of a settlement agreement. The Order specifically directed K & L Cable to immediately cease the use of the mark WARM ZONE in the United States, and to immediately transfer and assign the domain name WARMZONE.NET to Black Pearl.

Thirteen days following the issuance of that Order, K & L Cable had failed to comply with the terms set forth in the Order. Plaintiff then brought this motion seeking sanctions and attorneys' fees associated with the enforcement of the settlement agreement. Defendants never took affirmative steps to transfer the domain name. The actual transfer of the domain name did not occur until after counsel for Plaintiff had contacted the legal department of the domain host

to advise them of the court's Order. Plaintiff has submitted a detailed record of the costs and attorneys' fees associated with the enforcement of the settlement agreement.

The court finds that Defendants failed to comply with the court's Order of March 15, 2007 in a timely fashion, and will therefore be required to pay sanctions and attorneys' fees and costs. Allowing for a reasonable amount of time to comply with the court's Order, the court awards \$500.00 per day in sanctions for ten days that elapsed before compliance with the Order for a total of \$5,000.00.

As to Plaintiff's request for attorneys' fees, the court is unclear whether any of the alleged hours are in connection with the Plaintiff's previous motion to enforce the settlement. The court finds that it would be inappropriate to award fees that accumulated prior to the issuance of the court Order of March 15, 2007, determining that a settlement had, in fact, occurred. Because the Plaintiff's calculation of legal fees incurred in relation to the enforcement of the settlement agreement after the issuance of the court order of March 15, 2007 is unclear, the court will adjust the submitted calculation of attorneys' fees and award them in the following amounts: Randall Bateman, 4 Hours at \$275 per hour; Perry Clegg, 10 Hours at \$215 per hour; Law Clerks, 4 Hours at \$95 per hour; and \$87 in costs.

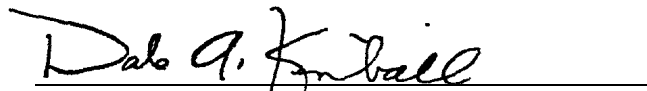
### CONCLUSION

The Plaintiff's Motion for Sanctions for Failure to Comply with Court's Order and For Attorneys' Fees Pursuant to Settlement Agreement is hereby **GRANTED** and Defendant K & L

Cable shall pay \$8,717 to Plaintiff Black Pearl Technologies, LLC, within fifteen days of the date of this Order.

DATED this 25th day of June, 2007.

BY THE COURT:

A handwritten signature in black ink, reading "Dale A. Kimball", is written over a horizontal line.

DALE A. KIMBALL  
United States District Judge